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10 CLUB DEMONSTRATION SERVICES, INC., and DAYMON
WORLDWIDE INC.

11
12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA
14

15 VICKIE HALE,

16 Plaintiff,

17 vs.

18 CLUB DEMONSTRATION SERVICES,
INC., and DAYMON WORLDWIDE INC.

19 Defendants.
20
21

Case No. 3:21-CV-00257-MMD-WGC

**STIPULATION AND ORDER TO
CONTINUE EARLY NEUTRAL
EVALUATION AND STAY DISCOVERY
PENDING RULING ON DEFENDANTS'
MOTION TO COMPEL ARBITRATION
(ECF NOS. 19, 20)**

(FIRST REQUEST)

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23 In accordance with the stipulation reached by the parties during their Early Neutral
24 Evaluation ("ENE") session on November 1, 2021 (ECF No. 30), Plaintiff VICKIE HALE and
25 Defendants CLUB DEMONSTRATION SERVICES, INC., and DAYMON WORLDWIDE INC.
26 (collectively, "Defendants"), by and through their counsel of record, hereby stipulate to and
27 respectfully request an order (1) continuing the ENE session to a date following the Court's decision
28

1 on Defendants' Motion to Compel Arbitration and Dismiss the Action, or, Alternatively, to Stay the
2 Action Pending Arbitration ("the Motion") (ECF Nos. 19, 20); and (2) staying discovery and all
3 other unexpired deadlines until after the continued ENE session has concluded. Although the Court
4 has granted one previous ENE continuance (ECF No. 18), this is the parties' first request for a
5 continuance of the ENE made after holding an initial ENE session. This is the parties' first request
6 to stay discovery and all other deadlines.

7 In consultation with U.S. Magistrate Judge Carla Baldwin during their ENE session on
8 November 1, 2021, the parties determined it would serve their mutual interests to pause their ENE
9 and stay discovery until the Court rules on Defendants' Motion. Because the parties do not presently
10 know whether they will continue to litigate in this Court or whether they will be compelled to
11 arbitration, the parties are not in position to make a reasonably accurate assessment of the anticipated
12 costs of continued litigation. This uncertainty stands as a significant barrier to meaningful
13 settlement discussions. Further, although Defendants deny all liability, it is impossible for them to
14 meaningfully discuss settlement without considering the potential for an award of exemplary or
15 punitive damages. It is presently impossible for Defendants reasonably to assess the amount of any
16 such award, however, because the parties do not presently know whether the potential award would
17 be issued by an arbitrator or a jury. This, too, is a significant barrier to meaningful settlement
18 discussions. The parties therefore ask this Court to continue the ENE until after it has ruled on the
19 Motion and thus determined the forum in which the parties will proceed with their litigation.
20 Additionally, to avoid litigation costs that may prove duplicative or unnecessary in the event the
21 parties move to arbitration or settle at the continued ENE, the parties further request that the Court
22 stay discovery and all other unexpired deadlines until after the Motion is decided and the continued
23 ENE has concluded.

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For the foregoing reasons, the parties respectfully request that the Court:

1. Stay all unexpired deadlines in the Stipulated Discovery Plan and Scheduling Order (ECF No. 15) effective November 1, 2021;
2. In the event Defendants' Motion is not granted, order the parties jointly to contact U.S. Magistrate Judge Baldwin's chambers within 14 days after entry of the Court's order on the Motion to schedule a continued ENE session;
3. In the event Defendants' Motion is not granted, order the parties jointly to contact the Court within 14 days after the conclusion of the continued ENE session to schedule a status conference for the purpose of proposing a revised litigation schedule.

The parties file this Stipulation and Order in good faith and not for purposes of undue delay.

Dated: November 3, 2021

Dated: November 3, 2021

Respectfully submitted,

Respectfully submitted,

/s/ James P. Kemp

/s/ Neil C. Baker

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Attorney for Plaintiff
VICKIE HALE

Attorneys for Defendants
CLUB DEMONSTRATION SERVICES, INC.,
and DAYMON WORLDWIDE INC.

IT IS SO ORDERED.

Dated: November 3, 2021.

William G. Cobb

UNITED STATES MAGISTRATE JUDGE

4891-0760-8833.1 / 097919-1069